

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

State of Oklahoma, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 05-CV-0329 GFK-SAJ
)	
Tyson Foods, Inc., et al.,)	
)	
Defendants.)	
)	

**SUPPLEMENTAL STATUS REPORT REGARDING CARGILL DEFENDANTS'
MOTION TO COMPEL PLAINTIFFS TO DESIGNATE DEONENTS UNDER
RULE 30(B)(6) AND STATE OF OKLAHOMA'S MOTION FOR PROTECTIVE
ORDER REGARDING THE CONDUCT OF 30(B)(6) DEPOSITIONS OF THE
STATE**

Defendants Cargill, Inc. and Cargill Turkey Production, LLC (the "Cargill Defendants") make the following status report as required by this Court's Order dated, December 7, 2007, Dkt. No.1409 at 2:

- 1) On November 28, 2007, counsel for the Cargill Defendants submitted a coordinated list of all of the Defendants' topics to counsel for the State of Oklahoma, and requested dates to schedule depositions on the first two topics in December or January.
- 2) On November 29, 2007, John Tucker and Theresa Hill, counsel for the Cargill Defendants, and David Riggs and Robert Nance, counsel for the Plaintiffs, conferred and reported that Plaintiffs were in the process of reviewing the Defendants' list of topics and the that Parties intend to engage in further discussions concerning commencing 30(b)(6) depositions of the Plaintiffs.

- 3) On December 21, 2007, the Plaintiffs issued Notices for the depositions of 30(b)(6) witnesses from Cargill, Inc. and Cargill Turkey Production, L.L.C. The notices for each Cargill entity contained 40 distinct areas of inquiry and demanded the production of witnesses on January 30th and January 31, 2008. *See* Exhibit 1 & Exhibit 2.
- 4) In the late afternoon of December 31, 2007, the State transmitted to the Defendants a three page letter containing objections to the coordinated list of all Defendants' topics served by Defendants on November 29th. *See* Exhibit 3. The Plaintiffs' letter offered no dates for depositions of the requested witness(es), instead suggesting that Defendants propose dates in late January or early February for the depositions.
- 5) Following this series of correspondence, counsel for the Cargill Defendants contacted Robert Nance and suggested that the Parties agree to a mutual continuance of Rule 30(b)(6) depositions until completion of the hearing on the Plaintiffs' Motion for Preliminary Injunction. This suggestion was intended to afford all parties relief from the onerous deposition schedule occasioned by the foreshortened discovery period for the preliminary injunction hearing (*See* Exhibit 4) and the time necessary to assimilate the voluminous production of expert materials being produced by the Plaintiffs in

anticipation of that hearing.¹ Mr. Nance advised that he did not have the authority to make such a decision and the issue was referred by him to Mr. Garren.

- 6) On January 9, 2008, counsel for the Cargill Defendants was notified by Mr. Garren that the Plaintiffs would agree to defer the depositions of Plaintiffs' 30(b)(6) witnesses until after the preliminary injunction hearing, but would not agree to a similar deferment for Cargill witness depositions. Instead, Mr. Garren suggested that he might be able to modify the notices.
- 7) On January 11, 2008, counsel for the Cargill Defendants received an email from Mr. Garren which contains his proposed "modifications" to the Amended Notices. *See* Exhibit 5. Mr. Garren's email speaks for itself.
- 8) Due to the Plaintiffs' unwillingness to agree to a mutual continuance of 30(b)(6) depositions until after the preliminary injunction hearing and the extreme prejudice that would result to all Defendants in this matter by the necessity of preparing for and attending depositions that appear to be unnecessary to Plaintiffs' burden of proof in the upcoming preliminary injunction hearing, the Cargill Defendants request that this Court take no action on either Cargill Defendants' Motion to Compel Plaintiffs to Designate Deponents Under Rule 30(b)(6), Dkt. No. 1270, or the State of Oklahoma's

¹ Since filing its Motion for Preliminary Injunction, the Plaintiff has produced 30 CDs and/or DVDs generally containing thousands of pages scientific expert data and materials. It is anticipated that additional comparable productions will continue to be made in advance of each Plaintiffs' experts' depositions.

Motion for Protective Order Regarding the Conduct of 30(b)(6) Depositions of the State, Dkt.No.1309 until after the conclusion of the preliminary injunction hearing scheduled for February 19, 2008 through March 5, 2008.

- 9) In the alternative, the Cargill Defendants request that this Court issue an Order staying the depositions requested by the Plaintiffs in their December 21, 2008 notices, pursuant to Fed.R.Civ.P. 26(b)(2), until the hearing on the preliminary injunction is complete. Following the hearing the Cargill Defendants will make witnesses available to the Plaintiffs for deposition prior to April 1, 2008 and requests that the Plaintiffs do the same.

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CERTIFICATE OF SERVICE

I certify that on the 11th day of January, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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s/ John H. Tucker